



Delegated decision report

DECISION UNDER DELEGATED POWERS

DECISION CANNOT BE TAKEN BEFORE TUESDAY, 19 MARCH 2013

Title	PROPOSED SALE OF THE FORMER WEST WIGHT MIDDLE SCHOOL, QUEENS ROAD, FRESHWATER, ISLE OF WIGHT – APPROVAL OF FINANCIAL OFFER
Report to	REPORT OF THE DEPUTY LEADER AND CABINET MEMBER FOR THE ECONOMY AND REGULATORY SERVICES

EXECUTIVE SUMMARY

1. To approve the disposal of the council's freehold interest in the former West Wight Middle School, Queens Road, Freshwater, Isle of Wight.
2. The outcome will be the best possible capital receipt from this disposal towards the funding of the capital investment element of the school reorganisation programme, as set out in the approved cabinet decision ref. 76/07 "Schools Reorganisation – Outcome of January/February Consultation", and in accordance with the current strategic asset management plan, it will also deliver a higher than required percentage of affordable housing - 69.per cent.

CONFIDENTIAL/EXEMPT ITEMS

3. Appendix 3 is confidential and is exempt by virtue of Paragraph 3 of Part 1 of Section 12A of the Local Government Act 1972 because it 'relates to financial or business affairs of any particular person'.

BACKGROUND

4. The former West Wight Middle School dates from 1938 and sits on a site extending to approximately 1.49 hectares (3.68 acres). A site plan is attached as Appendix 1 with the site outlined in red. The site accommodated West Wight Middle School until its recent closure under the council's school reorganisation programme, when the site was declared surplus to educational requirements in the cabinet member delegated decision 22/11 "Disposal of School Sites".

5. Before the site was marketed, the council was approached by Spectrum Premier Homes Ltd (Spectrum) which expressed the wish to be treated as a special purchaser in order to acquire the site to provide a residential redevelopment scheme with the majority of units (69 per cent) as affordable housing.
6. It would be normal practice for the council to market a site for disposal to ensure that it receives best consideration through a competitive process. Ultimately, the value of a site will depend upon the price that possible purchasers are willing to pay for it: this in itself will be determined by prevailing market conditions at the time of marketing, on the planning consent achieved for alternative use, and on any restrictions placed on the site by the council in respect of use and development.
7. The council does, however, make provision for dealing with an interested party without openly marketing the site, where that bidder falls within the definition of a “special purchaser” as defined by the Royal Institution of Chartered Surveyors, namely “a purchaser to whom a particular asset has a special value because of the advantages arising from its ownership that would not be available to general purchasers in the market”.
8. As Spectrum’s proposal includes the delivery of a number of benefits in addition to a market level capital receipt, it was decided that the council would proceed with a disposal to Spectrum as a special purchaser, and the decision to treat with Spectrum as a special purchaser was taken under cabinet member delegated decision 44/12.
9. As the Isle of Wight Council must achieve best consideration for the sale of its property assets (best consideration does not necessarily have to be defined purely in monetary terms, but can include additional social, economic, or other benefits) two independent valuations were commissioned in accordance with council policy for dealing with special purchasers. These were based on 35 per cent affordable housing as required by planning policy. One valuer highlighted uncertainty of value due to the lack of information relating to Section 106 planning costs but recommended marketing at between £350,000 and £800,000. The second one reported a value of £777,000.
10. Spectrum made an initial offer of £650,000 for the site, but eventually increased this to its current level of £825,000, on the basis of providing 69 per cent affordable housing. The 35 per cent affordable housing required under planning policy would generate 18 units of affordable housing, whilst 69 per cent of affordable housing would generate 35, therefore, by pursuing a sale to Spectrum, Freshwater will benefit from an additional 17 units of affordable housing.
11. Spectrum has also highlighted additional “value” that it believes will be delivered through its proposed scheme with benefits for employment, economic growth and potentially additional affordable housing, including:
 - **Employment initiative** seeking to address employment issues on the Island.
 - **Supply-chain specialist** to provide a co-ordinating role, paid for by Spectrum, to ensure contractors have the best opportunity to access Island based suppliers and sub-contractors. In addition, Spectrum will undertake a gap analysis and benchmarking with its mainland supply-chain to inform a strategy for growing Island construction.

- **Affordable Housing** - an 'additional affordable homes' based overage arrangement whereby efficiencies achieved through the development will be ring fenced to deliver more affordable homes.
12. As the latest offer by Spectrum exceeds both assessments of open market value as determined by the independent valuers; provides almost double the affordable housing units required by planning policy; and adds value for local employment, supply chains and the possibility of additional affordable housing, Spectrum's offer of £825,000 is being recommended for acceptance in this report.
 13. The council as landowner submitted a planning application for the development of 50 dwellings (ref. TCP/23150/D-P/01332/11) which has now been given a Resolution to Grant planning permission subject to the signing of a Section 106 agreement. Spectrum's offer is conditional upon the site being a residential development opportunity, and is therefore subject to this planning consent being granted.
 14. The site does not immediately abut the adopted highway. Instead, part of the land between the adopted highway (Queens Road) and the site is owned by a third party (hatched green on the attached plan). The Council has a right to pass over the land under Section 31 of The Highways Act 1980 through use over time, but does not have the right to undertake highway works on the land which will be required as part of any planning permission. This, in effect, creates a ransom strip against the Council, which means a payment must be made by the council to the landowner to obtain its agreement to any works.
 15. Freshwater Parish Council (FPC) owns this land. As a result of the ransom situation, FPC instructed a surveyor to advise it on this matter. There is strong case law governing such ransom land negotiations, and, after some months of discussions, a ransom payment of £45,000 was agreed. A summary of how this payment was calculated is set out in Appendix 2.
 16. Accordingly, terms have been agreed between the council and Freshwater Parish Council for the grant of an easement and to allow such works.
 17. The sale of the site requires consent to dispose from the Department for Education (DfE), which has already been granted.
 18. While the parish council and ward member have expressed support to the proposed redevelopment of the site there is, currently, a local action group which is seeking to oppose the scheme, albeit the opposition relates as much to the closure of the school as to the redevelopment itself. On the basis of the actions of this group however Spectrum has sought further indemnities and assurances from the Council as set out in confidential Appendix 3.

STRATEGIC CONTEXT

19. One of the key principles in the corporate plan is 'The council will actively seek to sell or dispose of assets that are surplus to requirements where practicable to maximise receipts'.

20. The disposal of this site meets a number of the council's key corporate priorities within its corporate plan, including: raising educational standards (previously known as the schools reorganisation programme), housing and homelessness, regeneration and the economy, and delivery of budget savings through changed service provision.
21. If this property is disposed of it will release a capital receipt into the school reorganisation's capital investment budget, to assist in delivering the schools reorganisation programme (decision ref 76/07).
22. The disposal of this property is identified in the 2011 Strategic Asset Management Plan.

PLANNING

23. As noted above, a planning application for residential use has been given a Resolution to Grant consent, subject to the signing of a Section 106 legal agreement.

CONSULTATION

24. Details of the proposal have been forwarded to the cabinet member for the economy and regulatory services and no adverse response has been received. Freshwater Parish Council and the local member have also been consulted and are in favour of the scheme.

FINANCIAL / BUDGET IMPLICATIONS

25. Historically, the council has not received rental income from this property therefore the sale will not result in any loss of revenue income.
26. If the property is not sold, it may be possible to attract a rental income by letting it. However, the accommodation is, essentially, a school building and therefore demand from tenants for the site in its existing configuration and condition would be limited. Indeed, where similar school sites have been openly marketed for all uses no interest for commercial uses, including school use, has been received. In addition, any rental income would be substantially reduced by the investment an in-coming tenant would need to make to create usable commercial space.
27. If the building was retained and a tenant could not be found, the council would be liable for paying holding costs of the empty building. An estimate of essential running costs, for one year as a vacant property, is approximately £28,000 (c. £5,000 for utility standing charges; £19,694 p.a. business rates and c. £3,000 contingency for maintenance and urgent works), but these exclude other costs which may arise, such as boarding up. There is no corporate budget, to fund these costs in the current financial year.
28. As noted above, the council is currently in negotiation with Freshwater Parish Council regarding securing rights to undertake highway works which will be required as part of any planning permission, and which will require a payment of £45,000 to be made from the council to the parish council. This payment has been calculated in accordance with Stokes vs. Cambridge case law, agreed between two chartered surveyors, and will be funded by the capital budget.

29. If the council cannot agree a settlement with the parish council, 41 units could be built without the use of the parish council owned site access (assuming the grant of planning consent), as the number of vehicular trip movements associated with 41 new dwellings has been calculated as being equivalent to the number which has historically existed as a school. Accordingly, the council's highways department could not require road improvements for a scheme of up to 41 units. An extra nine units generates a land value of c. £117,000, therefore it is worth the council paying the parish council £45,000 for the right undertake the works to facilitate these additional nine units, resulting in a net increase in land value to the council of £72,000, and the delivery of nine additional residential units. In the event of the parish council not agreeing to this, however, a purchaser would amend its offer to reflect 41 units, and the council would receive less value for the land. If this were to occur, a separate delegated decision report would follow.
30. If the recommendation made in this report is adopted, the council will benefit from a capital receipt into the schools reorganisation capital investment programme, and will be released from the potential future holding costs of a vacant school building, particularly if demand from potential tenants is limited.
31. There is a further financial implication from the indemnities and assurances requested by the purchaser and set out in Appendix 3.

CARBON EMISSIONS

32. There is a positive carbon emission implication for the council as a result of the sale of this property. During the last full financial year 2010/11, the site consumed 167,917 kilowatts of electricity and 439,557 kilowatts of gas, and a full year's occupation is estimated to have produced 113 tonnes of CO₂.
33. The Carbon Reduction Commitment Energy Efficiency Scheme levies a charge (essentially a tax) on all carbon emissions produced by the Council of £12 per tonne. It can be shown that this disposal would generate a saving (calculated for a full year's occupation) against this scheme of £1,356 per annum from the school's central budget. This is anticipated in the council's carbon reduction plan.

LEGAL IMPLICATIONS

34. The council currently holds the property on a freehold basis.
35. If the property is sold, once the sale has been completed the council will have no further interest in the property.
36. The contract is dependent upon any necessary consent from the DfE being obtained, which have now been received.
37. The council has the ability to dispose of property under Section 123 of the Local Government Act 1972 for best consideration.

EQUALITY AND DIVERSITY

38. The council as a public body is subject to general and specific duties under equality and diversity legislation and as such has a duty to impact assess its service, policies/strategies and decisions with regard to diversity legislation and the nine 'protected' characteristics (race, gender reassignment, disability, age, sex and sexual orientation, religion or belief, pregnancy and maternity, marriage and civil partnership). Any equality and diversity issues that may arise from the closure of the school have been dealt with in the paper seeking to approve the closure of the school (ref 22/11).
39. Report 22/11 stated: "Where the council is providing new or extended facilities every opportunity will be taken to improve access to premises. The process will ensure that disposal of school sites do not disadvantage students or staff with regard to the nine protected characteristics as specified in the Equality Act 2010 – age, disability, gender reassignment, marriage/civil partnership, pregnancy/maternity, race, religion/belief, sex or sexual orientation. Positive impact is anticipated. The improvement to the remaining stock would be conducive to good access to services which meet the needs of those local communities affected."

PROPERTY IMPLICATIONS

40. It is considered that property implications are adequately covered within the main body of this report.

OPTIONS

41. Options have been considered in respect of this property as follows:
- (a) To sell the property to Spectrum Premier Homes Ltd on the terms proposed, approve the access agreement with Freshwater Parish Council and agree to the provision of the indemnities and assurances set out in confidential Appendix 3.
 - (b) To market the property in the hope of achieving a higher capital receipt.
 - (c) To retain ownership and refurbish/convert the property for a different use, and then offer to the market on a rental basis.
 - (d) To retain ownership of the property and seek to lease it to a tenant without undertaking works

RISK MANAGEMENT

42. There is a medium risk that the Council may not conclude an access agreement with Freshwater Parish Council, although this is unlikely as the two councils have been in negotiations for some time, have agreed terms and Freshwater Parish Council has given no indication of not proceeding. This is now only subject to the approval of the signing of the agreement as recommended in this paper.

43. Option (a) represents a low risk to the council as the interested party has demonstrated enthusiasm to purchase the site on the terms proposed, and has confirmed funds are available.
44. Option (b) would be of medium to high risk as the existing bidder may withdraw. The council is aware that the offer exceeds the open market valuations obtained and, therefore, it is unlikely that a better offer would be received. Indeed, the major risk of this course of action would be that a lower offer is ultimately agreed, in light of the potential for continued falls in the current property market.
45. Option (c) is high risk as it is difficult to predict exactly what alternative uses may be demanded by the market and, therefore, what works would be required to convert and refurbish this school building to enable such a use. If the wrong conversion decision is made there is an equally high risk that there would be no demand for the resulting scheme. Even if a successful scheme was achieved, there would be an ongoing management liability to the Council
46. Option (d) would result in a continued revenue cost to the council for property management and maintenance, with limited uses for the site in its current form due to its most recent use as a school, and a relatively low rent to reflect the need for substantial capital investment by an in-going tenant to make it suitable for an alternative use.

EVALUATION

47. In light of the continued uncertainty across the property market and uncertain economic climate, it is considered that option (a) is the most appropriate disposal path, with the council achieving not only in excess of open market value for the site, but 69 per cent affordable housing instead of the 35 per cent required under planning policy, generating 35 units of affordable housing for Freshwater (17 more than would be provided by a private developer).
48. Option (b) is not recommended as the offer received exceeds the open market value confirmed by two independent valuers, and provides 69 per cent affordable housing rather than the required 35 per cent, so offering additional benefits to both Freshwater and the council. Accordingly, it is unlikely that a higher offer will be received following a marketing exercise.
49. Options (c) and (d) are not recommended as they fail to achieve a capital receipt, and would result in either a significant and possibly risky capital investment by the council or only a relatively low rent at best, and would have ongoing capital and revenue cost implications to the council requiring some level of landlord administrative input.

RECOMMENDATION

50. That the council adopts option (a):

To sell the property to Spectrum Premier Homes Ltd on the terms proposed, approve the access agreement with Freshwater Parish Council and agree to the provision of the indemnities and assurances set out in confidential Appendix 3.

APPENDICES ATTACHED

51. [Appendix 1](#) - Site Plan

52. [Appendix 2](#) - Calculation of ransom payment

53. Appendix 3 – RESTRICTED and is exempt by virtue of Paragraph 3 of Part 1 of Section 12A of the Local Government Act 1972 because it 'relates to financial or business affairs of any particular person'

BACKGROUND PAPERS

50. [Cabinet paper decision 76/07 – Schools Reorganisation – Outcome of January/February Consultation](#)

[Delegated decision 22/11 – Disposal of school sites](#)

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STUART LOVE
Director, economy and environment

CLLR GEORGE BROWN
*Deputy leader and cabinet member for the
economy and regulatory services*

Decision

Signed

Date
